

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ALABAMA  
EASTERN DIVISION**

<b>LEANDER CALHOUN,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>Case No. 1:09-CV-468-VEH-TMP</b>
	)	
<b>STATE OF ALABAMA, et al.</b>	)	
	)	
<b>Defendants.</b>	)	

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**MEMORANDUM OF OPINION**

The magistrate judge filed a report and recommendation on August 28, 2009, recommending that this action filed pursuant to 42 U.S.C. § 1983 be dismissed under 28 U.S.C. § 1915A(b) for failure to state a claim upon which relief can be granted. The plaintiff filed a Motion to dismiss without prejudice on September 3, 2009. (Doc. #16).

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the Court is of the opinion that the magistrate judge's report is due to be and is hereby **ADOPTED** and the recommendation is **ACCEPTED**. Accordingly, the complaint is due to be dismissed pursuant to 28 U.S.C. § 1915A(b) for failure to state a claim

upon which relief may be granted. Plaintiff's Motion (Doc. #17) is denied as **MOOT**.

A Final Judgment will be entered.

**DONE** this the 16th day of September, 2009.

A handwritten signature in black ink, appearing to read "V. Emerson Hopkins", written over a horizontal line.

**VIRGINIA EMERSON HOPKINS**

United States District Judge